

**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554**

**In the Matter of**

**Improving Public Safety Communications in  
the 800 MHz Band**

**Consolidating the 900 MHz Industrial/Land  
Transportation and Business Pool Channels**

**To: The Commission**

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) **WT Docket No. 02-55**  
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**COMMENTS OF NEVADA WIRELESS, LLC TO  
SUPPLEMENTAL COMENTS OF THE CONSENSUS PARTIES**

**February 3, 2003**

**Nevada Wireless LLC  
4690 Longley Lane, Suite 25  
Reno, NV 89502**

Pursuant to that Public Notice entitled *Wireless Telecommunications Bureau Seeks Comment On “Supplemental Comments Of The Consensus Parties” Filed In The 800 MHz Public Safety Interference Proceeding – WT Docket No. 02-55*, DA 03-19 (released January 3, 2003), Nevada Wireless LLC hereby submits its comments on that document entitled “Supplemental Comments of the Consensus Parties” (Supplement) dated December 24, 2002.

### **Background Information on the Nevada Wireless Network and Spectrum**

#### **Holdings**

Nevada Wireless has standing to actively participate in the realignment of the 800MHz band as it is one of the referenced “13 non-Nextel EA licensees in channels 1-120.” Nevada Wireless operates a digital wireless system developed by Motorola that utilizes the same cell site iDEN RF technology as Nextel, but a substantially different MSO technology, in both 806-809/851-854 MHz (channels 1-120) and 809-814/854-860 MHz (channels 121-400). Some of the channels in the system are licensed on a site-specific basis, while other spectrum was acquired at auction and is authorized on an EA basis. The system includes both “high-site” and “low-site” transmitter locations. Based on the number of sites and the fact that they are capable of hand-off, the antenna height associated with some of those sites and the number of channels deployed at each site, Nevada Wireless meets the definition of a “Cellularized”<sup>1</sup> system included in the original Consensus Parties filing.

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<sup>1</sup> Cellularized is a term defined in previous comments by the Consensus Parties and in the Commissions Second Report and Order in the 700 MHz Guard Band proceeding. It is used here with the acknowledgment of those definitions.

Therefore, the company has a direct interest in how the Consensus Parties propose to treat its system in their recommended realignment of the 800 MHz band.

**Nevada Wireless offers Conditional Support of the Consensus Plan**

Nevada Wireless originally opposed the Consensus Plan as it appeared not to provide a reasonable option for Cellularized non-Nextel EA licensees such as Nevada Wireless. The original Plan proposed that such licensees migrate to channels 121-400, but also recommended that they be required to obtain a waiver if they wished to continue operating Cellular system architecture. The waiver would require the applicant to demonstrate conclusively that it would not cause interference to incumbents in the non-Cellular block, in particular public safety licensees. In fact, the Plan suggested that even if a waiver were granted, licensees should be required to follow a pre-application approval process with public safety frequency coordinators and licensees in the area.

This approach made no sense for Nevada Wireless or for public safety licensees.

As explained in our previous reply comments filed electronically September 20, 2002, Nevada Wireless already has experienced some interference problems with public safety entities. Like Nextel, the company has worked with those entities directly to resolve all such matters and enjoys a positive relationship with them. However, it was apparent that, as with Nextel's iDEN network, the correct approach was to move Nevada Wireless' system away from 800 MHz public safety operations.

Based on the following clarifications/ modifications to the consensus plan being incorporated into the final proceeding we are now prepared to conditionally support the latest "Supplemental Comments of the Consensus Parties" as it now focuses on the core issue of permanently solving interference between dissimilar technologies by the creation

of two distinct spectrum blocks to separate all systems using Cellularized architecture from non-Cellularized architectures. Nevada Wireless requests the following clarifications or if necessary modification to the consensus plan proposed on 12/24/02.

**All Nevada Wireless spectrum, both site specific and EA licensed, whether in channels 1-120 or 121-400, will need to be relocated into the Cellularized block channels 401-720.**

The Supplement stipulates that “Licensees such as Nextel, currently operating in the non-cellularized block using cellular, low-site architecture, would move up to the cellularized block in exchange for their existing authorizations.”<sup>2</sup> As indicated above, Nevada Wireless meets the definition of Cellular system architecture on its Motorola Harmony System as defined in previous PWC comments and the commissions Second Report and Order in the 700 MHz Guard Band proceeding.<sup>3</sup> Since its system is a single, integrated operation, it must be migrated intact to a band in which it will be permitted to operate in its current configuration without the need for a waiver and without the potential for causing interference to public safety facilities. It must be relocated out the bands below 861 MHz and up to the newly-designated Cellularized band along with Nextel.

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<sup>2</sup> Comments taken from page 11 Paragraph 1 of the Supplemental Comments of the Consensus Parties filed December 24, 2002.

<sup>3</sup> PWC at page 8 and 15. See also, Service Rules for the 746-764 and 776-794 MHz Bands, and Revisions to Part 27 of the Commissions Rules, WT Docket No. 99-168, *Second Report and Order* (rel. Mar. 9, 2000) at P 14 and n. 34.

**Spectrum constraints of Nextel in many markets may make it difficult to move other cellularized carriers into channels 401-600**

Due to the heavy impact on Nextel's spectrum position during the Public Safety re-banding it could be difficult for Nextel to also relocate cellularized operators like Nevada Wireless at the same time. Nextel's 401 to 600 channels will be severely capacity strained during the rebanding since they will have to accommodate some significant part of the traffic that previously was handled on their lower 800 MHz band channels. As such Nevada Wireless proposes exchanging all its existing frequency assignments between 806-815 and 851-860 MHz for the NPSPAC channels at 821-824/866-869 MHz. This would allow Nevada Wireless to completely tune out of the non-Cellularized spectrum, yet not impact Nextel's heavily utilized 401-600 channels.

Additionally in most markets in which Nevada Wireless operates there is little or no public safety usage of the NPSPAC Channels. In most Nevada Wireless markets, Public Safety has chosen to use the 856-860 MHz spectrum and would immediately benefit by rebanding Nevada Wireless into channels 601-720. This alternative is a far more cost and time efficient method to resolve public safety's interference issues in Nevada Wireless Markets. Attached as Exhibit A, is a proposed reallocation summarizing how the Nevada Wireless exchange proposal could take place.

## **Realistic considerations of “white space” on current licenses of non-Nextel**

### **EA license holders and un-constructed licenses**

The consensus parties have made several proposals for exchanging the existing authorizations of companies operating cellular architecture systems into the Cellularized band. The original reply comments of the PWC stated “This option will only be available to licensees that own both the geographic license and the underlying site-specific license in the 806-809/851-854 MHZ band.”<sup>4</sup> Further reply comments filed by these same parties, a filing now known as the “Consensus Plan”, stated “When being retuned, EA licensees will get new frequency assignments equal to the amount of spectrum they have both under existing site specific licenses and the white space benefits in their current EA license.”<sup>5</sup>

The latest supplemental comments of the Consensus Parties filed December 24, 2002 now stipulates that “licensees currently residing in the non-cellurized block that wish to deploy cellular architecture may move up to the cellularized block in exchange for their existing authorizations.”<sup>6</sup>

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<sup>4</sup> Comments taken from Page 14 Paragraph 1 of the PWC reply comments filed August 7, 2002.

<sup>5</sup> Comments taken from page 13 Paragraph 2 of the Reply Comments Of the Consensus Parties.

<sup>6</sup> Comments taken from page 11 Paragraph 1 of the Supplemental Comments of the Consensus Parties filed December 24, 2002.

Nevada Wireless supports this latest explanation of how its current site specific and EA licenses could be moved into the Cellularized block but remains very concerned about how the encumbrance of our EA spectrum holdings would be calculated. Specifically, Nevada Wireless would object to an approach under which incumbent site specific licenses would be considered valid even if those licenses were never constructed or had not been operational under commission rules.

Most purchasers of spectrum in Auctions 34/36 and the Commission itself are aware of the numerous speculative paper licenses on SMR and General Category channels that are not constructed and operational and never have been. The tremendous amount of speculative licenses granted made Commission enforcement of construction/operational requirements difficult to enforce. Clearly the FCC understands that bidders in auction 34 /36 such as Nevada Wireless were bidding specifically on contiguous channels to be used in the “white space” of this band and do not always have the underlying site specific channels for all of their holdings. The Commission encouraged due diligence of the spectrum in each market and Nevada Wireless did research into the actual use or non use of the spectrum prior to bidding. In most markets acquired by Nevada Wireless in Auctions 34/36 there were no operational incumbent stations to protect. On location frequency monitoring has confirmed that in most markets numerous licenses have never been built or provided service to the public. These authorizations have cancelled automatically for non-construction in accordance with Commission rules and cannot be considered in calculating the scope of Nevada Wireless’ spectrum holdings.

## **Conclusion**

Given the above clarifications or modifications to the Consensus Parties 12/24/02 comments; Nevada Wireless respectfully requests that the Commission act expeditiously and in the public's best interest to move all cellular architecture systems out of channels 1-400 into channels 401-720.

Respectfully Submitted

James D. Boyer

James D Boyer

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Dated February 3, 2003



## Exhibit A

### Proposed Re Allocation of Nevada Wireless Spectrum

Site Specific Licenses many duplicated frequencies	Number Designation Of E.A.	Amount Existing Bandwidth	Ch # of Existing Allocation	Amount Proposed Bandwidth	Ch # of Proposed Allocation
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Reno,NV Sac,CA Contours	EA151/164	582 chs	001-400	50ch	601-720
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Economic Area Auction 34 &36 Purchases	Number Designation Of E.A.	Amount Existing Bandwidth	Ch # of Existing Allocation	Amount Proposed Bandwidth	Ch # of Proposed Allocation
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Springfield, Missouri	BEA094	50	001-150	50	601-720
Hobbs, New Mexico	BEA0136	25	001-150	25	601-720
Amarillo, Texas	BEA0138	50	001-150	50	601-720
Santa Fe, New Mexico	BEA0139	100	001-150	100	601-720
Billings, Montana	BEA0144	30	201-388	30	601-720
Great Falls, Montana	BEA0145	50	001-150	50	601-720
Missoula, Montana	BEA0146	75	001-150	75	601-720
Spokane, Washington	BEA0147	50	001-150	50	601-720
Spokane, Washington	BEA0147	25	201-388	25	601-720
Idaho Falls, Idaho	BEA0148	50	001-150	50	601-720
Reno, Nevada	BEA0151	25	001-150	25	601-720
Reno, Nevada	BEA0151	45	201-388	45	601-720
Las Vegas, Nevada	BEA0153	25	001-150	25	601-720
Flagstaff, Arizona	BEA0154	50	001-150	50	601-720
Farmington, New Mexico	BEA0155	25	001-150	25	601-720
Albuquerque, New Mexico	BEA0156	50	001-150	50	601-720
El Paso, Texas	BEA0157	75	001-150	75	601-720
Fresno, California	BEA0162	5	201-388	5	601-720
San Francisco, California	BEA0163	5	201-388	5	601-720
Sacramento, California	BEA0164	15	201-388	15	601-720
Redding, California	BEA0165	5	201-388	5	601-720
Eugene/Medford, Oregon	BEA0166	25	001-150	25	601-720
Portland, Oregon	BEA0167	15	201-388	15	601-720
La Grande/Pendle, Oregon	BEA0168	50	001-150	50	601-720
Kennewick, Washington	BEA0169	50	001-150	50	601-720
Anchorage, Alaska	BEA0171	100	001-150	100	601-720

**Proposed allocation is for contiguous spectrum expressed as a 25khz channel equivalent  
With a corresponding Channel Pair 45 mhz lower**

## **Certificate of Service**

I Steven R Sixberry to herby certify that on this 4<sup>th</sup> day of Febuary, 2003 I caused a copy of the "Reply Comments of Nevada Wireless" to be sent via US Mail to each of the following:

Michael K Powell, Chairman  
Federal Communications Commission  
445 12<sup>th</sup> Street, SW 8<sup>th</sup> Floor  
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